UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/808,849	03/15/2001	Christopher J. Edge	10264US01 (EKC 90080)	5262

1333	7590	07/27/2005	EXAMINER

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ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/808,849	EDGE, CHRISTOPHER J.
	Examiner	**Art Unit**
	Londra C. Burge	2178

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 May 2005_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-28_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-28_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

DETAILED ACTION

1.   This action is responsive to communications: Amendment filed 5/3/2005

2.   Claims 1-28 are pending. Claims 1, 14 and 28 are independent claims. Claims 27 and 28

are newly added claims.

3.   This action has been made Final.

Claim Rejections - 35 USC § 103

4.   **The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all**

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   **Claims 1-10, 12, 14-22, 25 and 28 remain rejected under 35 U.S.C. 103(a) as being**

unpatentable over Acosta et al. (herein after Acosta) U.S. Patent No. 6,166,729 filed

5/7/1997 in view of Manolis et al. (herein after Manolis) U.S. Patent No. 6,583,799 B1 filed

11/29/1999.

        In regard to independent claim 1, Acosta discloses *identifying a technician* responsible

for adjustment of color characteristics and *if the technician satisfies a qualification criterion*

(Acosta Col 6 Lines 43-46 i.e. a technician can be a person that uses a computer in order make

adjustments and monitor the computer systems and Col 28 Lines 55-67 and Col 29 Lines 1-49

i.e. mentions a user of a computer that registers and logins in order to receive information and

requests images).

Acosta does not specifically disclose *adjustment of color characteristics of an image; and permitting an upload of the image to a web server.* However, Manolis mentions uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

In regard to dependent claim 2, which depends on claim 1, Acosta discloses of *wherein the qualification criterion includes a minimum level of color adjustment skill.* (Acosta Col 29 Lines 32-40 i.e. the permissions level of a user observed after the user logs in).

In regard to dependent claim 3, which depends on claim 1, Acosta discloses of *wherein the qualification criterion includes a minimum level of care* (Acosta Col 29 Lines 32-40 i.e. the permissions level of a user observed after the user logs in).

Acosta does not specifically disclose *adjustment of color characteristics of an image.* However, Manolis mentions adjusting the color of the image (Manolis Abstract and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and

more sharp image so the image would look more like the original image uploaded to the server

after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7

Lines 16-28 and Col 6 Lines 44-57).

In regard to dependent claim 4, which depends on claim 1, Acosta discloses *assigning*

the technician an upload password that permits the upload of the image if the technician satisfies

the qualification criterion (Acosta Col 29 Lines 32-40 i.e. the permissions level of a user

observed after the user logs in using a username and password).

In regard to dependent claim 5, which depends on claim 1, Acosta discloses *creating*

an image file representative of the image, and including in an image file an indication of the

identity of the technician (Acosta Col 29 Lines 3-67 and Col 30 Lines 1-15 i.e. a user that logs in

using a username and password in order to retrieve images and in ITFML page including the

image to display, which would indicate the identity of the user after the user logs in).

In regard to dependent claim 6, which depends on claim 1, Acosta discloses *creating*

metadata for an image file representative of the image, the metadata including an indication of

the identity of the technician (Acosta Col 29 Lines 3-67 and Col 30 Lines 1-15 i.e. a user that

logs in using a username and password in order to retrieve images and in ITFML page including

the image to display and information about the image, which would indicate the identity of the

user after the user logs in).

In regard to dependent claim 7, which depends on claim 1, Acosta discloses *wherein*

the technician adjusts and uploads a plurality of images (Acosta Col 29 Lines 50-67).

Acosta does not specifically disclose *the method further comprising auditing the images*

uploaded by the technician to assess quality of the adjustments. However, Manolis mentions

uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col

3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering

operations such as sharpening, resizing, rotating, or color reducing operations to enhance the

appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the

time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an

image color with uploaded from the web server for a clearer and more sharp image so the image

would look more like the original image uploaded to the server after the image is resized to

preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines

44-57).

In regard to dependent claim 8, which depends on claim 1, Acosta discloses

qualifying the technician for upload of the image if the technician satisfies the qualification

criterion (Acosta Col 28 Lines 55-67 and Col 29 Lines 1-49 i.e. user that register and login in

order to receive information); *creating an image file representative of the image and including in*

an image file an indication of the identity of the technician, and identifying the technician by

reference to the indication; and revoking the qualification from the technician in the event the

assessed quality is unacceptable (Acosta Col 29 Lines 3-67 and Col 30 Lines 1-15 i.e. a user that

logs in using a username and password in order to retrieve images and in ITFML page including

the image to display, which would indicate the identity of the user after the user logs in).

Acosta does not specifically disclose *auditing the image to assess quality of the*

adjustments made by the technician. However, Manolis mentions uploading images to a web

server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images

uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening,

resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

In regard to dependent claim 9, which depends on claim 1, Acosta discloses *qualifying the technician for upload of the image if the technician satisfies the qualification criterion; and revoking the qualification from the technician in the event the assessed quality is unacceptable* (Acosta Col 28 Lines 55-67 and Col 29 Lines 1-49 i.e. user that register and login in order to receive information).

Acosta does not specifically disclose *auditing the image to assess quality of the adjustments made by the technician.* However, Manolis mentions uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

In regard to dependent claim 10, which depends on claim 1, Acosta does not specifically disclose *adjustment of color characteristics of an image to more closely approximate the appearance of a physical item.* However, Manolis mentions uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

In regard to dependent claim 12, which depends on claim 10, Acosta does not disclose *making further adjustments to the color characteristics of the image based on color response characteristics of a display device associated with a client; and downloading the adjusted image from the web server to the client via a computer network.* However, Manolis mentions uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail and Col 2 Lines 11-20 i.e. transmitting images over a computer network). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image

uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

In regard to independent claim 14, claim 14 reflects similar subject matter claimed in claim 1 and is rejected along the same rationale

In regard to dependent claim 15, which depends on claim 14, claim 15 reflects similar subject matter claimed in claim 2 and is rejected along the same rationale

In regard to dependent claim 16, which depends on claim 14, claim 16 reflects similar subject matter claimed in claim 3 and is rejected along the same rationale

In regard to dependent claim 17, which depends on claim 14, claim 17 reflects similar subject matter claimed in claim 4 and is rejected along the same rationale

In regard to dependent claim 18, which depends on claim 14, claim 18 reflects similar subject matter claimed in claim 5 and is rejected along the same rationale

In regard to dependent claim 19, which depends on claim 14, claim 19 reflects similar subject matter claimed in claim 6 and is rejected along the same rationale

In regard to dependent claim 20, which depends on claim 14, claim 20 reflects similar subject matter claimed in claim 7 and is rejected along the same rationale

In regard to dependent claim 21, which depends on claim 14, claim 21 reflects similar subject matter claimed in claim 8 and is rejected along the same rationale

In regard to dependent claim 22, which depends on claim 14, claim 22 reflects similar subject matter claimed in claim 9 and is rejected along the same rationale

In regard to dependent claim 23, which depends on claim 14, claim 22 reflects similar subject matter claimed in claim 10 and is rejected along the same rationale

In regard to dependent claim 25, which depends on claim 23, claim 25 reflects similar subject matter claimed in claim 12 and is rejected along the same rationale

In regard to independent claim 27, claim 27 reflects similar subject matter claimed in claim 8 and is rejected along the same rationale

In regard to dependent claim 28, which depends on claim 27, Acosta discloses *revoking the qualification from the technician in the event the assessed quality is unacceptable* (Acosta Col 28 Lines 55-67 and Col 29 Lines 1-49 i.e. user that register and login in order to receive information).

6.   **Claims 11 and 24 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Acosta et al. (herein after Acosta) in view of Manolis as applied to claims 1 and 14, in view of Holub as applied to claims 10 and 23, and in further view of Holtzman et al. (herein after Holtzman) U.S. Patent Pub No. 2001/0027439 A1 filed 11/30/2000**

In regard to dependent claim 11, which depends on claim 1, Acosta does not disclose of *wherein the physical item is a retail item offered for sale via the web server.* However, Holtzman mentions a user making a purchase of an item on a website (Holtzman Page 6 Paragraph 63). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Holtzman to Acosta, providing Acosta the benefit of having the items with adjust characteristics available for purchase on the web to allow users the convenience of shopping online without having to leave the house and taught by Holtzman.

In regard to dependent claim 24, which depends on claim 14, claim 24 reflects similar subject matter claimed in claim 11 and is rejected along the same rationale

7.   **Claims 13 and 26 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Acosta et al. (herein after Acosta) in view of Manolis as applied to claims 1 and 14, in view of Holub as applied to claim 10, in view of Manolis as applied to claim 12, and in further view of Bruck et al. (herein after Bruck) U.S. Patent No. 6,008,836 filed 11/22/1996 provided by the applicant.**

In regard to dependent claim 13, which depends on claim 12, Acosta does not disclose of *guiding the client through a color profiling process via one or more web pages to estimate the color response characteristics of the display device.* However, Bruck mentions the picture adjustment screen provides access to control screens, which prompt the user to manipulate the picture quality controls on the client display device. The control screens also contain instructions, which guide the user through the process of properly adjusting the picture quality controls. The control screens further contain test patterns or reference images, which allow the user to accurately calibrate the picture characteristics for which controls are available. (Bruck Col 2 Lines 65-67 Col 3 Lines 1-6) It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Bruck to Acosta, providing Acosta the benefit of guiding the user through steps of adjusting the picture and color of an item to ensure the image quality that the user is accustomed to as taught by Bruck Col 3 Lines 1-6.

In regard to dependent claim 26, which depends on claim 25, claim 26 in addition to the following reflects similar subject matter claimed in claim 12 and is rejected along the same rationale (Manolis Col 20 Lines 12-15)

Response to Arguments

8.   **Applicant's arguments filed 5/31/2005 regarding claims 1-28 have been fully considered but they are not persuasive.**

The applicant argues that the prior art does not disclose of identification of the technician and color adjustments being made (Page 2 Para 3-4). However, Acosta discloses at Col 28 Lines 55-67 and Col 29 Lines 1-49 that a user of a computer that registers and logins in order to receive information and requests images.

Acosta does not specifically disclose *adjustment of color characteristics of an image; and permitting an upload of the image to a web server.* However, Manolis mentions uploading images to a web server and adjusting the color of the image (Manolis Abstract and Col 3 Lines 24-30 i.e. images uploaded to the server and Col 7 Lines 16-28 i.e. image filtering operations such as sharpening, resizing, rotating, or color reducing operations to enhance the appearance of the thumbnail). It would have been obvious to one of ordinary skill in the art at the time of the invention to apply Manolis to Acosta, providing Acosta the benefit of correcting an image color with uploaded from the web server for a clearer and more sharp image so the image would look more like the original image uploaded to the server after the image is resized to preserve the image quality as taught by Manolis Abstract and Col 7 Lines 16-28 and Col 6 Lines 44-57).

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Londra C. Burge whose telephone number is (571) 272-4122. The examiner can normally be reached on 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on (571) 272-4124. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCB 7/13/05

CESAR PAULA
PRIMARY EXAMINER